

FILED

OCT 23 2013

Clerk, U S District Court
District Of Montana
Billings

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

TOBY C. McADAM,

Plaintiff,

vs.

UNITED STATES FOOD AND
DRUG ADMINISTRATION;
MARGARET A. HAMBURG,
COMMISSIONER OF FDA,

Defendants.

No. CV-12-137-BLG-SEH

ORDER

United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendations in this matter on September 30, 2013.¹ Plaintiff filed objections on October 18, 2013.² The Court reviews *de novo* findings and recommendations to which objections are made. 28 U.S.C. § 636(b)(1).

Upon *de novo* review of the record, I find no error in Judge Ostby's Findings and Recommendations and adopt them in full. The claims asserted by

¹ Doc. 21

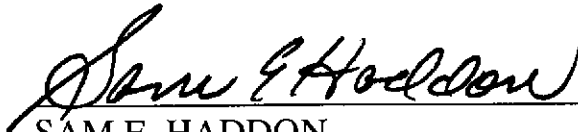
² Doc. 22

Plaintiff may be dismissed because: 1) they constitute an impermissible collateral attack on the Consent Decree entered in Cause CV-10-128-BLG-RFC on November 4, 2010, 2) they are barred by the doctrine of *res judicata*, and 3) the United States is immune from liability for constitutional torts.

ORDERED:

1. Defendants' Motion to Dismiss³ is GRANTED.
2. Plaintiff's Complaint is DISMISSED with prejudice.
3. The Clerk is directed to enter judgment accordingly.

DATED this 23rd day of October, 2013.



SAM E. HADDON
United States District Judge

³ Doc. 3